

UNCLASSIFIED

K385

ACTION SCT-00

RELEASED IN PART

B1, 1.4(D), B2

|      |         |         |         |         |         |         |         |
|------|---------|---------|---------|---------|---------|---------|---------|
| INFO | LOG-00  | AID-00  | A-00    | CCO-00  | CG-00   | CIAE-00 | COME-00 |
|      | CTME-00 | INL-00  | DNI-00  | DOEE-00 | DOTE-00 | WHA-00  | DS-00   |
|      | EAP-00  | EB-00   | OIGO-00 | FAAE-00 | FBIE-00 | VCI-00  | H-00    |
|      | TEDE-00 | INR-00  | INSE-00 | LAB-01  | L-00    | CAC-00  | M-00    |
|      | VCIE-00 | DCP-00  | NRC-00  | NSAE-00 | ISN-00  | NSCE-00 | OCS-00  |
|      | NIMA-00 | PA-00   | PM-00   | GIWI-00 | PRS-00  | P-00    | ISNE-00 |
|      | DOHS-00 | FMPC-00 | IRM-00  | SSO-00  | SS-00   | TRSE-00 | USSS-00 |
|      | NCTC-00 | ASDS-00 | CBP-00  | PMB-00  | DSCC-00 | PRM-00  | DRL-00  |
|      | G-00    | NFAT-00 | SAS-00  | SWCI-00 | /001W   |         |         |

-----273230 201155Z /38

O 201257Z SEP 06  
 FM AMEMBASSY OTTAWA  
 TO SECSTATE WASHDC IMMEDIATE 3861  
 INFO ALL CANADIAN POSTS COLLECTIVE IMMEDIATE  
 OSD WASHDC IMMEDIATE  
 ATF WASHDC IMMEDIATE  
 JOINT STAFF WASHDC IMMEDIATE  
 DEA HQS WASHDC IMMEDIATE  
 DEPT OF HOMELAND SECURITY WASHDC IMMEDIATE  
 FBI WASHINGTON DC IMMEDIATE

C O N F I D E N T I A L OTTAWA 002852

NOFORN

E.O. 12958: DECL: 09/19/2016  
 TAGS: PTER, PGOV, PHUM, PINR, SY, CA  
 SUBJECT: ARAR COMMISSION REPORT HIGHLY CRITICAL OF RCMP

Classified By: Classified by Polmincouns Brian Flora for reasons 1.4 (b)  
 ) and (d)

1. (C/NF) Summary: The Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar (Arar Commission) released its first (of two) reports on the handling of the case on September 18; a second report on policy recommendations will be released at an unspecified time. The report, 1200 pages in total, cleared Arar of any involvement in terrorist activities and found no evidence that Canadian officials participated or acquiesced in the U.S. decision to detain and remove Arar to Syria. The report, however, cited a number of Canadian government missteps, omissions and mistakes that did contribute to Arar's deportation by U.S. authorities to Syria, his torture and personal difficulties, and the Royal Canadian Mounted Police (RCMP) bore the brunt of the criticism. It concluded that the RCMP provided inaccurate information to American

UNCLASSIFIED

UNCLASSIFIED

authorities that portrayed him as a member of a group of Ottawa-based Islamic extremists with links to al-Qaeda. The report also found that Canadian officials leaked confidential and sometimes inaccurate information about the case to the media for purposes of damaging Arar,s reputation or to justify their actions. Finally the report lists 23 recommendations that include training for RCMP involved in national security investigations, a new system for submitting &lookout8 alerts to foreign countries about Canadian citizens, and a ban on CSIS and RCMP sharing information that could lead to torture. The entire report can be viewed at [www.ararcommission.ca](http://www.ararcommission.ca).

B1

End summary.

2. (U) Maher Arar, a Canadian citizen born in Syria, was detained at JFK Airport on September 26, 2002 while transiting from Tunisia to Canada on his Canadian passport. At that time the RCMP considered Arar a person of interest due to his association with other individuals associated with terrorism. In October 2002 the American government returned him to Syria. According to Arar, he went to Syria against his will and was held in a small cell and repeatedly tortured. He was freed in October 2003 and then returned to Canada where his case has attracted enormous attention. The resulting political pressure led to the establishment of a formal public inquiry on February 5, 2004 to investigate and report on the actions of Canadian officials in relation to Arar,s saga. Dennis O,Connor, Associate Chief Justice of Ontario, was appointed to lead the commission.

3. (SBU) The Arar Commission released a 3-volume report on September 18 presenting the factual analysis of the case surrounding Arar and submitted 23 recommendations to the government. The commission intends to submit a separate policy review report at an undetermined point in the future. Qpolicy review report at an undetermined point in the future. Among the key findings of the report:

- The RCMP depicted Arar as an Islamic extremist to American authorities without first screening that information for relevance or accuracy.
- The RCMP did not give its investigative unit, Project A-0

UNCLASSIFIED

## UNCLASSIFIED

Canada, clear information on how to share information with U.S. authorities. In addition, the information did not include important caveats on how intelligence reports can and cannot be used, thus breaching RCMP policy.

--The U.S. government probably detained and removed Arar based on inaccurate information.

4. (SBU) The report also criticized Canadian officials for not picking up on cues that Arar had been tortured, sending mixed messages to Syrian officials that could have been interpreted as supportive of Arar,s imprisonment, and leaking confidential, inaccurate and damaging information about Arar to the media in an effort to damage his reputation or to justify the government,s actions. It also criticized the RCMP for failing to tell Privy Council officials that it gave information to the U.S. without attaching written caveats and that it had supplied its entire database to U.S. agencies.

5. (SBU) Among the 23 recommendations, those of particular interest to the U.S. are:

--The RCMP should maintain its policy of sharing information obtained in the course of national security investigations with other agencies and police departments, both domestic and foreign, in accordance with the principles discussed in these recommendations.

--The RCMP should never share information in a national security investigation without attaching written caveats in accordance with existing policy. The RCMP should review existing caveats to ensure that each precisely states which institutions are entitled to have access to the information subject to the caveat and what use the institution may make of that information. Caveats should also generally set out an efficient procedure for recipients to seek any changes to the permitted distribution and use of the information.

--Where Canadian agencies become aware that foreign agencies have made improper use of information provided by a Canadian agency, a formal objection should be made to the foreign agency and the foreign minister of the recipient country.

--The RCMP and CSIS should review their policies governing the circumstances in which they supply information to foreign governments with questionable human rights records.

Information should never be provided to a foreign country where there is a credible risk that it will cause or contribute to the use of torture. Policies should include specific directions aimed at eliminating any possible Canadian complicity in torture, avoiding the risk of other human rights abuses and ensuring accountability.

UNCLASSIFIED

## UNCLASSIFIED

--Canadian agencies should have clear policies about the use of border lookouts.

--The Government of Canada should register a formal objection with the governments of the United States and Syria concerning their treatment of Mr. Arar and Canadian officials involved with this case.

Other recommendations include:

--The RCMP should ensure that its activities in matters relating to national security are properly within its mandate as a law enforcement agency.

--The RCMP should continue to engage in integrated and co-operative operations in national security investigations, but agreements or arrangements in this respect should be reduced to writing.

--The RCMP should ensure that those involved in national security investigations are properly trained in the particular features of such investigation.

--The RCMP should maintain its current approach to centralized oversight of national security investigations.

--The minister responsible for the RCMP should continue to issue ministerial directives to provide policy guidance to the RCMP in national security investigations, given the potential implications of such investigations.

--The RCMP, s Criminal Intelligence Directorate (CID) or another centralized unit with expertise in national security investigations should have responsibility for oversight of information sharing related to national security with other domestic and foreign departments and agencies.

--The RCMP should ensure that, whenever it provides information to other departments and agencies, whether foreign or domestic, it does so in accordance with clearly established policies respecting screening for relevance, reliability and accuracy and with relevant laws respecting reliability and accuracy and with relevant laws respecting personal information and human rights.

--The RCMP, s information-sharing practices and arrangements should be subject to review by an independent, arms-length review body.

--Canadian agencies other than the RCMP that share information relating to national security should review recommendations 6 to 10 to ensure that their information-sharing policies conform, to the appropriate extent, with the approaches I am recommending to the RCMP.

--The Department of Foreign Affairs and Trade (DFAIT) should provide its annual reports assessing the human rights records of various countries to the RCMP, CSIS, and other Canadian government departments or agencies that may interact with such countries in connection with investigations.

UNCLASSIFIED

## UNCLASSIFIED

--Canadian agencies should accept information from countries with questionable human rights records only after proper consideration of human rights implications. Information received from countries with questionable human rights records should be identified as such and proper steps should be taken to assess its reliability.

--The Government of Canada should develop a protocol to

provide for coordination and coherence across government in addressing issues that arise when a Canadian is detained in another country in connection with terrorism-related activity. Essential features of this protocol should include consultation among relevant Canadian agencies, a coherent and unified approach in addressing the issues, and political accountability for the course of action adopted.

--The Canadian government should develop specific policies and training to address the situation of Canadians detained in countries where there is a credible risk of torture or harsh treatment.

--Consular officials should clearly advise detainees in foreign countries of the circumstances under which information obtained from the detainee may be shared with others outside the Consular Affairs Bureau, before any such information is obtained.

--Canadian agencies conducting national security investigations, including CSIS, the RCMP and the Canada Border Services Agency (CBSA) should have clear written policies stating that such investigations must not be based on racial, religious or ethnic profiling.

--Canadian agencies involved in anti-terrorism investigations, particularly the RCMP, CSIS, and the CBSA, should continue and expand on the training given to members and staff on issues of racial, religious and ethnic profiling and on interaction with Canada's Muslim and Arab communities.

--The Government of Canada should assess Mr. Arar's claim for compensation in the light of the findings in this report and respond accordingly.

6. (SBU) The Canadian government replied to media inquiries that it plans to review the report and reply to its recommendations in a few weeks. Public Safety Minister Stockwell Day refused to directly answer a reporter's question about sending formal diplomatic objections to the American and Syrian governments. Instead he replied that the Canadian and American governments established a protocol in January 2004 that ensures Canadian officials are notified when a Canadian citizen is detained by U.S. officials. The Opposition demanded a swift implementation of the recommendations and the PM obliged, after reminding Canada that the incident occurred on the Liberal's watch. &The

UNCLASSIFIED

UNCLASSIFIED

Government will act swiftly on those recommendations,8 he said.

B1

B2

WILKINS

NNNN

UNCLASSIFIED